IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

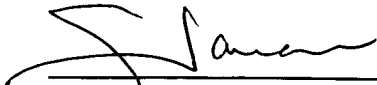| Applicant	David Martin
Serial No. 09/705,671	Filing Date: November 3, 2000
Title of Application:	Method for Improvement of Promotion Response
Confirmation No. 6264	Art Unit: 3622
Examiner	Khanh H. Le

Mail Stop Appeal Brief-Patents
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Transmittal of Appeal Brief (Patent Application – 37 C.F.R. 192)

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application with respect to the Notice of Appeal filed on March 28, 2005.

2. Status of Applicant. This application is on behalf of a small entity.

3. Fee for Filing Appeal Brief. Pursuant to 37 CFR 1.17(f), the fee for filing the Appeal Brief is $250.00.

4. Extension of Term. No extension of time is believed required. However, in the event an extension of time is a requirment, this will act as an extension if the need arises.

5. Total Fee Due - Fee Payment: Attached is a Credit Card Authorization From in the amount of $250.00 for the Appeal brief fee.

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Box Missing Parts; Assistant Commissioner for Patents; Post Office Box 1450; Alexandria, VA 22313-1450.

May 31 , 2005

Stephen P. McNamara

Page two
Serial No. 09/705,671
Applicant: David Martin

6.   <u>Fee Deficiency</u>. If any additional extension and/or fee is required, please charge Account No. 19-4516.

Respectfully submitted,

Stephen P. McNamara, Registration No., 32,745
Attorneys for Applicant
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of   :

David Martin   :

     :   Examiner: Le, Khanh H.

Serial No.: 09/705,671   :   Group Art Unit: 3622

Filed: November 3, 2000   :   Confirmation No. 6264

For: Fully Capable Minimally   :
     Inflatable Object Model System   :
     For Multidimensional Applications:
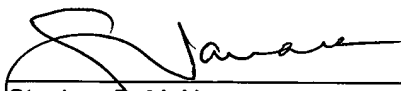
Appeal Brief Under 37 C.F.R. §1.192

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Having filed herewith a Notice of Appeal from the final rejection of Claims 1-
23, all of the claims currently pending, the final rejection being mailed on November
5, 2004, Appellant submits its Appeal Brief for the above-captioned application
pursuant to 37 C.F.R. §1.192 in triplicate as follows.

Certificate of Mailing: I hereby certify that this correspondence is today being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: : Mail Stop Appeal Brief – Patents; Commissioner for Patents; P.O. Box 1450; Alexandria, VA 22313-1450.

May 31, 2005

Stephen P. McNamara

Real Party in Interest

The real party in interest is the inventor, David Martin.

Related Appeals and Interferences

There are no related appeals or interferences.

Status Of Claims

Claims 1-23 are currently pending, stand rejected and are the subject of the instant Appeal. A copy of each of these claims is attached hereto as Exhibit A.

Status Of Amendments

There are no pending or unentered Amendments.

Summary Of Invention

The present invention relates generally to the response measurement of personal direct sales or service in sales organizations where the salesman has the potential to act independently of his or her management and therefore introduce bias into any system of measurement, and the use of such results to change customer prioritization or change the allocation of sales or service effort to current or potential customers.

Many organizations use direct personal promotion in order to maintain or increase sales with existing customers, or obtain sales or sales leads from new customers. In many situations the representative is provided a list of customers to contact. The list generally will have customers prioritized, or will provide information to help the representative to prioritize the customers, so that the representative is given direction, or a specific recommendation, about which customers should receive greater, or sooner, attention or effort. For example, a pharmaceutical representative might be given a prioritized list each month that contains names of

specific doctors for the representative to contact, the frequency that contact should be made, and the drug(s) that should be the effort of the contacts. However, in reality, representatives will not make contact with or provide sales promotion to customers exactly as indicated, or with the exact priority, implied or recommended, in the prioritized list, because of biases or exercise of judgment about which customers are the most fruitful customers. Thus it is very difficult to obtain an accurate analysis of response rates because it the assumption is that the call frequency of the prioritized list is being followed is not correct.

The claimed invention is a method of measuring promotion response which specifically tests response to call frequency independently of the content of any particular communications to customers in selling situations where the salesman has the ability to introduce bias or changes in his call frequency or presentation. The method obtains a measurement that is useable to generate modified promotional and selling plans even when the salesforce alters a planned selling cycle by introducing variables due to their biases or knowledge.

The invention provides promotional response measurement that provides aggregate response measurement, but also measures response against specific segments of customers, both of which can be used to reprioritize customers and/or change sales promotion resource allocation to customers. The invention provides unbiased response estimates that can be used to compare the promotional response of multiple products. Thus the results can also be used to change the resource allocation between products.

The method of the invention uses existing selling systems to provide customer priority to representatives. Adjustments are made in the prioritized list provided to representatives so that the impact of alternative prioritization or resource allocation is simulated without significantly impacting current sales promotion

activity. Subsequent sales results are compared between the unadjusted and adjusted customers on the prioritized list. This difference is used to calculate the promotional response.

Unlike typical field experiments, these adjustments are distributed across the all geographies and sales representatives. This virtually eliminates any possibility of unique regional or geographic factors that will significantly bias results. Furthermore, the randomization ensures that the impact of the adjustments will be small for any given sales representative. This significantly reduces unwanted test effects. In many cases sales representatives will be unaware and unable to detect the specific adjustments.

The method can be modified to enable the organization to test revised targeting or resource allocation. A proportion of customers, randomly chosen, are prioritized based on revised targeting, while the remainder are prioritized using existing targeting. Subsequent analysis of sales determines the effectiveness of the revised targeting approach.

An example of the method is a hypothetical example excerpted from the application specification below.

Example

A pharmaceutical company has a sales force of 500 representatives selling 3 different drugs to a market of 75,000 physicians. The company uses a contact planning system that provides each representative with a complete list of physicians in his/her territory and a recommended contact frequency for each of the three drugs for each physician on the list. The contact plan is updated each month and includes information about each physician, including the number of contacts that

have been made to that physician. Thus the representative can track progress in terms of contacts and sales to each physician.

For one of the three drugs, drug Alpha, the 75,000 physicians have been prioritized from the most important physicians to contact to the least important physicians to contact. This ranking has been divided into 7 different categories, from "Very High" to "Very Low" reflecting the desired number of contacts that are wanted for each physician as indicated in Table 1:

Table 1

Drug Alpha Priority	Number of Physicians	Desired Contacts Per Year per Physician	Total Contacts per Year
Very High	0	30	0
High	15,000	24	360,000
Med High	15,000	18	270,000
Medium	15,000	12	180,000
Med Low	15,000	6	90,000
Low	15,000	4	60,000
Very Low	0	2	0
Sum	75,000		960,000

To determine the promotional responsiveness from contacts the adjustments illustrated in Table 2 are implemented. 500 physicians, or 3.3%, of each priority group of physicians are adjusted to the next higher priority level. Another 500 physicians of each group priority level are adjusted down one level. The adjusted physicians are chosen at random from with the priority groups. No priority is changed more than one level. In this example the desired contacts remains the same for each priority level.

Table 2

| Drug Alpha Priority | Original Priority | Physician Counts | | | Revised Priority | Desired Contacts Per Year per Physician | Revised Contacts per Year |
		Adjusted Up from Lower Priority	Adjusted Down from Higher Priority	Not Adjusted			
Very High	0	500			500	30	15,000
High	15,000	500		14,000	14,500	24	348,000
Med High	15,000	500	500	14,000	15,000	18	270,000
Medium	15,000	500	500	14,000	15,000	12	180,000
Med Low	15,000	500	500	14,000	15,000	6	90,000
Low	15,000		500	14,000	14,500	4	58,000
Very Low	0		500		500	2	1,000
Sum	75,000	2,500	2,500	70,000	75,000		962,000

This provides a total adjusted group of 5,000 physicians. Each representative has, on average, 5 physicians that are moved up one level and 5 physicians that are moved down one level. This compares against an average of 150 physicians per representative. Total desired annual contacts have changed only slightly from 960,000 to 962,000, an increase of 0.2%.

The first question is to determine how the contact allocation system changes the contact plan in response to these adjustments. This is done using the response measurement methodology, and does not require re-running the contact planning system with different assumptions. Table 3 below provides the average planned contacts for each adjustment cell, up and down, and for the unadjusted physicians.

Table 3

Drug Alpha Priority	Desired Contacts Per Year per Physician	Adjusted Up		Adjusted Down		Not Adjusted		Total Planned Contacts per Year
		Physicians	Avg. Planned Contacts per Year	Physicians	Avg. Planned Contacts per Year	Physicians	Avg. Planned Contacts per Year	
Very High	30	500	29.5					14,750
High	24	500	23.2			14,000	24.1	349,000
Med High	18	500	16.9	500	19.2	14,000	17.9	268,650
Medium	12	500	10.8	500	13.1	14,000	11.9	178,550
Med Low	6	500	5.9	500	7.2	14,000	6.1	91,950
Low	4			500	4.5	14,000	4.0	58,250
Very Low	2			500	3.0			1,500
Sum		2,500		2,500		70,000		962,650
Weighted Average Desired		18.0		8.4		12.8		
Weighted Average Planned		17.3		9.4		12.8		

As can be seen, the total number of planned contacts is again very near the target of 960,000, and that the average planned contact frequency for each of the unadjusted physicians is also very near the desired contacts per year per physician. Physicians that were adjusted up have an increase in planned contacts versus the unadjusted group, but not quite as high as the desired number of contacts in the revised target level. The desired average contacts for the "Up" group is 18.0. If they had been left at the old priority, the desired average would have been 12.8.

The next level of promotion response is to measure how representatives respond to the revised targeting direction. Table 4 below shows the actual contact frequency for a three month period after the adjustments are implemented and the revised contact plan is provided to the field (contact frequency is still reported at an annual rate even though it is for a three month period).

Table 4

Drug Alpha Priority	Desired Contacts Per Year per Physician	Adjusted Up		Adjusted Down		Not Adjusted		Total Planned Contacts per Year
		Physicians	Avg. ACTUAL Contacts per Year	Physicians	Avg. ACTUAL Contacts per Year	Physicians	Avg. ACTUAL Contacts per Year	
Very High	30	500	29.0					14,500
High	24	500	22.0			14,000	23.9	345,600
Med High	18	500	16.5	500	19.4	14,000	18.0	269,950
Medium	12	500	10.7	500	13.2	14,000	12.1	181,350
Med Low	6	500	5.1	500	7.3	14,000	6.1	91,600
Low	4			500	4.7	14,000	4.2	61,150
Very Low	2			500	2.5			1,250
Sum		2,500		2,500		70,000		965,400
Weighted Average Desired			18.0		8.4		12.8	
Weighted Average ACTUAL			16.7		9.4		12.9	

Table 4 shows an increase in contacts in the "Up" group of 3.8 (from 12.9 actual in the unadjusted group to 16.7 in the "Up" group). This compares to the "desired" increase of 5.2 contacts (from 12.8 to 18.0). Thus actual contacts delivered are about 72% (3.8 over 5.2) of what might be anticipated due to the revisions.

Table 5

Table 5 illustrates the actual increase in sales units compared with the actual contact frequency.

Drug Alpha Priority	Adjusted Up			Adjusted Down			Not Adjusted		
	Physicians	Avg. ACTUAL Contacts per Year	Average Sales Units	Physicians	Avg. ACTUAL Contacts per Year	Average Sales Units	Physicians	Avg. ACTUAL Contacts per Year	Average Sales Units
Very High	500	29.0	50.7						
High	500	22.0	43.6				14,000	23.9	47.7
Med High	500	16.5	28.7	500	19.4	45.2	14,000	18.0	36.0
Medium	500	10.7	14.4	500	13.2	26.1	14,000	12.1	24.2
Med Low	500	5.1	8.8	500	7.3	19.6	14,000	6.1	12.2
Low				500	4.7	11.6	14,000	4.2	8.4
Very Low				500	2.5	7.6			
Sum	2,500			2,500			70,000		
Weighted Avg. ACTUAL		16.7	29.2		9.4	22.0		12.9	25.7

The information in Table 5 can be condensed and rearranged to focus on the differences between the adjustment groups and the unadjusted groups. In Table 6, all changes are listed versus the original targeting groups.

9

Table 6

Drug Alpha Priority PRE-Adjustment	Adjusted Up			Adjusted Down		
	Avgerage CHANGE in Contacts	Average CHANGE in Sales Units	Response	Avgerage CHANGE in Contacts	Average CHANGE in Sales Units	Response
Very High						
High	5.1	3.1	60%	(4.5)	(2.4)	54%
Med High	4.0	7.7	192%	(4.8)	(9.8)	205%
Medium	4.4	4.6	104%	(4.8)	(4.6)	95%
Med Low	4.6	2.2	47%	(1.4)	(0.6)	41%
Low	0.9	0.4	43%	(1.7)	(0.8)	48%
Very Low						
Avg.	**3.8**	**3.6**	**94%**	**-3.4**	**-3.7**	**106%**

The "Up" group is seen to generate an increase of 0.94 units for every incremental contact. The "Down" group loses 1.06 units for an every incremental decrease in contacts. Thus, we can generally expect to generate about one additional unit in sales for every additional contact.

Importantly, however, this data reveals that the response rate is much higher for the Med-High target group. High, Med-Low, and Low groups typically have an incremental response rate in the 50% range, significantly below the average. The Med-High group generates incremental response at approximately 200%.

This result suggests that the contact frequency should be increased for the Med-High group relative to the High, Med-Low, and Low groups. A suitable adjustment might be to adjust the desired contact frequency up by 3 contacts in the Med-High group, and decrease the desired contact frequency by 1 contact in the High, Med-Low, and Low groups.

Based upon the calculated response rates this would generate an increase of approximately 90,000 units in the Med-High group (3 increased contacts times 200% response times 15,000 physicians) partially offset by approximately 22,500 units in the other three groups (1 decreased contact times 50% response times 45,000 physicians). This net increase of 67,500 units is achieved without any net change in contacts, and therefore no change in sales cost, and is 135 times larger than the 500 units that were forfeited due to the test.

In summary, the present invention provides a method for determining effectiveness of direct personal promotion efforts in a marketing environment in which representatives make contact with a customer in accordance with a prioritized list, comprising the steps of: (1) creating a prioritized list of customers for representatives of an organization to use in contacting customers, the prioritized list including an identification of a customer identity and a specified contact frequency for each such customer to be executed by the representatives; (2) adjusting the specified contact frequency for a selected subset of customers to create an adjusted prioritized list; (3) communicating the adjusted prioritized list to the representatives (e.g. by generating call lists for each representative or groups of representatives) ; and (4) measuring changes in the promotional response among the selected subset of customers. The invention further include a method of improving effectiveness of such direct personal promotion efforts by a further step of using the measured change in promotional response among the selected subset of customers as an input to creation of an updated prioritized list with a modified contact frequency targeting the customers most likely to yield additional sales.

References Cited And Applied

(1) Roseman, Ed; "How to establish quality control over the sales force," Medical Marketing and Media, V. 27, n 10 p 544, Oct 1992 Dialog File 148, Record No. 06199077 (hereinafter, "Roseman")

(2) Anonymous, "Selling", Marketing Telemarketing Awards 1997 Supplement pp 18=19, June 19, 1997, Dialog File 15, Record No. 01444255 (Hereinafter "Anonymous"

(3) Bell, Gordon H., "I want my MVT: Drive marketing with multivariate testing techniques" Dialog File 15, Record # 01549882 (hereinafter "Bell").

Grounds Of Rejection

Claims 1, 5-9, 13-15, 19, and 23 are rejected under 35 U.S.C. § 103(a) as unpatentable over Roseman in view of Anonymous.

Claims 2-4, 10-12, 16-18, and 20-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Roseman in view of Anonymous and further in view of Bell.

Issues Presented For Review

(1)   Whether the Examiner's rejection under 35 U.S.C. § 103(a) is proper despite the fact that neither Roseman, Anonymous, nor Bell discloses, teaches or suggests a method of testing promotion response by alteration of call frequency as required by all of claims 1-23 .

Grouping of Claims

Claims 1-23 may be broadly grouped together however, each dependent claim adds specific additional elements to the independent Claims. As such, the requirements of these claims must be considered because it is improper to fail to consider any limitation in the claims. In re Geerdes, 491 F.2d 1260, 1262, 180 U.S.P.Q. 789, the 791 (CCPA 1974) ("every limitation in the claim must be given effect rather than considering one in isolation from the others").

Argument

The Examiner's rejection is a classic example of improper "hindsight" analysis, using the disclosure of the present invention to assemble an obviousness rejection from fragments of ideas in prior art references. A fair reading of the disclosures of the cited references simply does not disclose or suggest the claimed invention.

Roseman discusses the concept of total quality control systems for controlling sales force efforts. The disclosed systems include basic concepts of ranking potential customers and setting call frequencies for customers based on relative rankings. Roseman does not disclose any systems for testing promotion response by alteration of call frequency.

Anonymous discusses National Tyres and Autocare Agency's use of a telemarketing call center to begin making calls on customers who had previously not been in regular contact with company sales representatives. This increased sales by 27.9% over a control group of customers who did not receive such communications. Anonymous appears to involve a system where the company has a telemarketing center and thus complete control over the frequency and content of the sales calls. It does not disclose any systems for testing promotion response by alteration of call frequency using a specified contact frequency that is adjusted to provide an input to a sales staff which may – or may not – follow the

specified contact list. All this reference reveals is that sales will increase when salesmen begin to call on customers.

However, the Examiner contends that Anonymous discloses "b) adjusting a specified contact frequency for a selected subset of customers to create a an adjusted prioritized list" because the Examiner equates beginning to make sales calls on a group of 20,000 previously uncalled customers (from a total of 45,000 customer accounts) as a "selected subset of customers." This is a contortion of the meaning of the claim. What the claim calls for is making adjustments in the frequency of sales calls in a small group of customers, identified as a "selected subset", not a group making up almost half the customer accounts.

Furthermore, the Examiner's inference that Anonymous is testing promotion response testing response to call frequency within a system where the salesforce alters a planned selling cycle by introducing variables due to their biases or knowledge is incorrect. Anonymous appears to be engaged in the operation of a telemarketing call center where the scripting, timing and frequency of calls is tightly controlled. It is different than the environment contemplated by the present invention in which a salesforce with independent biases can alter the selling program.

In many promotion response systems there is complete control over how much promotion is made. For example, in sending out a catalog mailing, the company controls content and the mailing frequency of sending catalogs to each customer. In medical sales forces, however, the number of calls to be made is "suggested." The actual number made can vary, based on salesman selection bias, etc. Because actual calls are different on a person by person basis, this means that typical multivariate techniques give the wrong answer. In Anonymous, the disclosed system uses direct control of total calls - and therefore cannot determine promotional response within the various subgroups of customers that were called on.

14

The method of the invention set forth in the claims has three unique characteristics that are not disclosed, taught or suggested by Anonymous. (1) It is "indirect" – it works through suggested calls, not actual calls - thus it is possible to implement in loose systems in which the salesmen have the potential to not follow the directions they are given. The system of Anonymous would not work in this environment. (2) It is less obvious which customers get increased numbers of calls (or decreased numbers of calls), so the method itself does not distort the results. Again, in the system of Anonymous, the method involved beginning calls to nearly 50% of the customer base. This obvious alteration in call patterns creates effects that are in addition to the factors intended to be measured. (3) The method randomizes which customers get the increases/decreases, which allows the marketer to test the promotional response of subgroups.

Claim 1 specifies "a marketing environment in which representatives make contact with a customer in accordance with a prioritized list." This claim language is intended to mean that the customers are being called on by salespersons such as pharmaceutical sales representatives and not by a simple telemarketing call center. The Examiner's reading of the claim language as applicable to other selling environments is inconsistent with the specification and the claim language itself.

Anonymous does not teach, suggest or make obvious the claimed invention. It certainly lacks any of the detail required of a disclosure that would be expected to enable the reader to understand the invention which is claimed in this application. As noted above, Anonymous only discloses that an automotive parts supplier increased its sales by 27.9% among the 20,000 customers it had never called on (out of its total of 45,000 account customers) by beginning to make sales calls. "To be anticipating, a prior art reference must disclose 'each and every limitation of the claimed invention[,] . . .must be enabling[,] and [must] describe… [the]claimed invention sufficiently to have placed it in possession of a person of

15

ordinary skill in the field of the invention.' *In re Paulsen*, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed Cir. 1994)." *Helifix Ltd. V. Blok-Lok, Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000). Although the rejection over Anonymous is a rejection under §103(a), not §102, this point is still fundamental. Anonymous' disclosure, whether with or without the Roseman article, would not lead the person of ordinary skill in the art to the claimed invention. The disclosures do not provide any direction on how to design a method of testing promotion response as provided in the detailed discussion of the invention in the specification in a situation where the call frequency and the call content is not controllable to an exact degree.

One skilled in the art would not have added the method of calling on previously uncalled customers disclosed by Anonymous with the concepts of ranking potential customers and setting call frequencies for customers based on relative rankings as disclosed by Roseman to arrive at the claimed invention. The prior art, either alone or in combination, does not disclose *any* aspect of the claimed invention. The prior art does not teach, disclose or suggest the claimed invention, much less suggest the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990).

Accordingly, the rejection of claims 1, 5-9, 13-15, 19, and 23 as unpatentable over Roseman in view of Anonymous should be reversed.

Bell discusses the concept of multivariable testing but again involves a telemarketing cal center in which the company has complete control over the content and timing of its sales calls. The examples given where multivariable testing techniques have been applied are all controlled experiment situations, such as a printed catalog where the content of the catalog is precisely defined, and telemarketing where a fixed script is employed. In each case, the testing is testing of specific marketing material, not the frequency of the marketing efforts. As noted above, the present invention tests changes in call frequency without

regard to content and is directed at a sales environment where salemen may alter call frequency either intentionally or unintentionally.

The Examiner relies on an example in Bell in which a mailing of informational material was followed up by a telephone call, and the timing of the telephone call was changed from one week after the mailing to four weeks after the mailing, as teaching a modification of call frequency. Applicant disagrees with this contention, as the disclosure of Bell says nothing about call frequency. It only discusses the period of delay after a mailing before making the follow up call, not how often a customer will be called. Contrary to the Examiner's assertions about the disclosure of Bell, there is *no* disclosure of increasing or decreasing the "quantity of contacts made with said selected subset of customers in a specified time period" as specified in claims 2-4.

There certainly is no disclosure of testing promotion response by alteration of call frequency using a specified contact frequency that is adjusted to provide an input to a sales staff. And, as noted above, Bell involves situations where the company has complete control over the timing of the calls, thus has nothing to do with avoiding the problems of salesman bias which are addressed by the present invention.

All of the cited art relied on by the Examiner involves cases where the company has complete control over the content and timing of sales calls. None of the cited art teaches how to manage the problem of independently operating salesmen who act according to their biases. None of the art recognizes or solves this problem. One skilled in the art would not have added the concept of multivariate testing to Anonymous' method of calling on previously uncalled customers and Roseman's concepts of ranking potential customers to arrive at the claimed invention. The prior art, either alone or in combination, does not disclose *any* aspect of the claimed invention. The prior art does not teach, disclose or

17

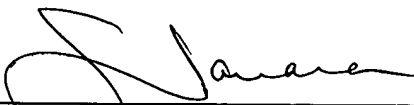suggest the claimed invention, much less suggest the desirability of the combination.

The fundamental problem with the Examiner's rejection is that it is an example of improper "hindsight" analysis, using the disclosure of the present invention to assemble an obviousness rejection from fragments of ideas in prior art references. A fair reading of the disclosures of the cited references simply does not disclose or suggest the claimed invention. In particular, the Examiner reads far more into the disclosures of Anonymous and Bell than is truly present.

In summary, Applicant respectfully submits that there is no disclosure, teaching or suggestion of a method of determining effectiveness of direct personal promotion efforts in a marketing environment in which representatives make contact with a customer in accordance with a prioritized list.

Accordingly, for all of the foregoing reasons, the rejection of claims 1-23 should be reversed. It is respectfully submitted that the cited prior art does not disclose or suggest the claimed invention, and that it would not have been obvious to make the claimed invention. It is respectfully requested that the Examiner be directed to issue a Notice of Allowance as to claims 1-23 of the application.

Respectfully submitted,

May 31, 2005

Stephen P. McNamara, Reg. No. 32,745
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, Connecticut 06905
(203) 324-6155

Attorneys for Appellant

18

1.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in which representatives make contact with a customer in accordance with a prioritized list, comprising the steps of:

creating on a computer an electronic prioritized list of customers for representatives of an organization to use in contacting customers, said electronic prioritized list including an identification of a customer identity and a specified contact frequency for each such customer to be executed by said representatives;

adjusting the specified contact frequency for a selected subset of customers to create an electronic adjusted prioritized list;

communicating said electronic adjusted prioritized list to said representatives;

measuring changes in the promotional response among said selected subset of customers and recording data relating to said changes in an electronic data storage system.

2.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 1, wherein said step of adjusting the specified contact frequency comprises increasing a quantity of contacts made with said selected subset of customers in a specified time period.

3.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 1, wherein said step of adjusting the specified contact frequency comprises decreasing a quantity of contacts made with said selected subset of customers in a specified time period.

4.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 1, wherein said step of adjusting the specified contact frequency comprises increasing a quantity of contacts made with a

first group of identified customers within said selected subset of customers and decreasing a quantity of contacts made with a second group of identified customers within said selected subset of customers.

5.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 1, further comprising: measuring changes in actual contacts by said representatives with said selected subset of customers.

6.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 1, further comprising: using a measured change in promotional response among said selected subset of customers as an input to creation of an updated prioritized list specifying a modified contact frequency for certain customers.

7.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 6, further comprising: using a measured increase in promotional response among said selected subset of customers as an input to creation of an updated prioritized list specifying a modified contact frequency applicable to customers contained in one or more first target groups of customers.

8.   A method of determining effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 6, further comprising: using a measured decrease in promotional response among said selected subset of customers as an input to creation of an updated prioritized list with a modified contact frequency applicable to customers contained in one or more second target groups of customers.

9.   A method of improving effectiveness of direct personal promotion efforts in a marketing environment in which representatives make contact with a customer in accordance with a prioritized list, comprising the steps of:

creating on a computer an electronic prioritized list of customers for representatives of an organization to use in contacting customers, said prioritized list including an identification of a customer identity and a specified contact frequency for each such customer;

adjusting the specified contact frequency for a selected subset of customers to create an adjusted electronic prioritized list;

communicating said adjusted electronic prioritized list to said representatives;

measuring changes in the promotional response among said selected subset of customers;

using a measured change in promotional response among said selected subset of customers as an input to creation of an updated electronic prioritized list with a modified contact frequency increasing contact frequency with a group or groups of customers most likely to generate additional sales in response to an increased contact frequency.

10.   A method of improving effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 9, wherein said step of adjusting the specified contact frequency comprises increasing a quantity of contacts made with a group of identified customers within said selected subset of customers in a specified time period.

11.   A method of improving effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 9, wherein said step of adjusting the specified contact frequency comprises decreasing a quantity of contacts made with a group of identified customers within said selected subset of customers.

12.   A method of improving effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 9, wherein said step of adjusting the specified contact frequency comprises increasing a quantity of contacts made with a first group of identified customers within said selected subset of customers and decreasing a quantity of contacts made with a second group of identified customers within said selected subset of customers.

13.   A method of improving effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 9, further comprising: measuring changes in actual contacts by said representatives with said selected subset of customers.

14.   A method of improving effectiveness of direct personal promotion efforts in a marketing environment in accordance with claim 9, further comprising:
        using a measured change in promotional response among said selected subset of customers as an input to creation of an updated prioritized list with a modified contact frequency decreasing contact frequency with a category of customers whose promotional response is least affected by a decrease in contact frequency.

15.   A software process for creating a prioritized list for direct personal promotion efforts by contacts by representatives, comprising the steps of:
        accessing a database of customers;
        creating a prioritized list of customers for representatives of an organization to use in contacting customers, said prioritized list defining a call frequency for identified customers or groups of customers, said call frequency being determined by calculation of expected promotional response by said customer or groups of customers, with a high call frequency being assigned to customers having a historical pattern of desirable promotional response to direct promotion efforts;
        altering the call frequency for a selected subset of customers to create an adjusted prioritized list;

communicating said adjusted prioritized list or portions thereof to said representatives;

measuring changes in the promotional response among said selected subset of customers;

using a measured change in promotional response among said selected subset of customers as an input to creation of an updated prioritized list with a modified call frequency increasing call frequency to an identified class of customers most likely to yield additional sales.

16.   A process for creating a prioritized list for direct personal promotion efforts by contacts by representatives in accordance with claim 15, wherein said step of altering the call frequency comprises increasing a quantity of contacts made with a group of identified customers within said selected subset of customers.

17.   A process for creating a prioritized list for direct personal promotion efforts by contacts by representatives in accordance with claim 15, wherein said step of altering the call frequency comprises decreasing a quantity of contacts made with a group of identified customers within said selected subset of customers.

18.   A process for creating a prioritized list for direct personal promotion efforts by contacts by representatives in accordance with claim 15, wherein said step of altering the call frequency comprises increasing a quantity of contacts made with a first group of identified customers within said selected subset of customers and decreasing a quantity of contacts made with a second group of identified customers within said selected subset of customers.

19.   A method of improving effectiveness of direct personal promotion efforts of pharmaceutical sales representatives contacting prescribing physicians in accordance with a prioritized list, comprising the steps of:

creating on a computer an electronic prioritized list of prescribing physicians for pharmaceutical sales representatives to use in contacting the prescribing physicians, said electronic prioritized list including an identification of each prescribing physician and a specified contact frequency for each such prescribing physician to be executed by said pharmaceutical sales representatives;

adjusting the specified contact frequency for a selected subset of prescribing physicians to create an adjusted electronic prioritized list with an adjusted contact frequency;

communicating said adjusted electronic prioritized list or portions thereof to said pharmaceutical sales representatives;

measuring changes in the promotional response among said selected subset of prescribing physicians;

using a measured change in promotional response among said selected subset of prescribing physicians as an input to creation of an updated electronic prioritized list with a modified contact frequency targeting prescribing physicians most likely to generate additional sales of pharmaceuticals;

communicating said updated electronic prioritized list or portions thereof to said pharmaceutical sales representatives;

20.   A method of improving effectiveness of direct personal promotion efforts in accordance with claim 19, wherein said step of adjusting the specified contact frequency comprises increasing a quantity of contacts made with said selected subset of prescribing physicians in a specific time period.

21.   A method of improving effectiveness of direct personal promotion efforts in accordance with claim 19, wherein said step of adjusting the specified contact frequency comprises decreasing a quantity of contacts made with said selected subset of prescribing physicians in a specific time period.

22.   A method of improving effectiveness of direct personal promotion efforts in accordance with claim 19, wherein said step of adjusting the specified contact frequency comprises increasing a quantity of contacts made with a first group of identified prescribing physicians contained within said selected subset of prescribing physicians and decreasing a quantity of contacts made with a second group of identified prescribing physicians contained within said selected subset of prescribing physicians.

23.   A method of improving effectiveness of direct personal promotion efforts in accordance with claim 19, further comprising:

using a measured change in promotional response among said selected subset of prescribing physicians as an input to creation of an updated electronic prioritized list with a modified contact frequency decreasing contact frequency with a category of prescribing physicians whose promotional response is least affected by a decrease in contact frequency.